547 BILL NO. 30 OF 1951

A Bill to safeguard the quality and purity of food and drugs and to provide for penalties in case of certain offences relating thereto.

BE it enacted by Parliament as follows :—

CHAPTER 1

PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Food and Drugs Act, 19 .

(2) It extends to the whole of India, including the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires :—

(*a*) "food" means any article used for food or drink for any person or animal, and includes articles used as components of any such article.

(*b*) "drug" means any article intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in any person or animal, and includes any article (other than food) intended to affect the structure or function of the body of any person or animal, and any article intended for use as a component of the articles in the two categories aforesaid.

(*c*) "prescribed" means prescribed by rules made under this Act.

(*d*) "regulations" means the regulations made by Government under this Act.

CHAPTER 2

GENERAL PROVISIONS AS TO FOOD AND DRUGS

3. *Composition of food and drugs.*—(1) No person shall add, or direct or permit any other person to add,—

(*a*) any substance to any food so as to render the food injurious to health ; or

(*b*) any substance to any drug so as to affect injuriously the quality or potency of the drug,

with the intent that the food or drug may be sold to the public, or administered to any person or animal in that state.

(2) No person shall sell, or have in his possession for the purpose of sale, any food or drug to which any substance has been so added.

(3) A person who contravenes any of the provisions of this section shall be guilty of an offence.

4. *Offences relating to abstraction of constituents of food or drug.*—(1) No person shall abstract, or direct or permit any other person to abstract, from any food or drug any constituent thereof so as to affect injuriously the nature, substance or quality of the food or drug with intent that it may be sold in its altered state,—

(*a*) without notice to the purchaser of the alteration; or

(*b*) whether with or without such notice, if in that state the food or drug does not comply with the relevant provisions contained in regulations or rules prescribed for the composition of food or drug; and

(2) a person who contravenes any of the provisions of this section shall be guilty of an offence.

5. *Offences relating to sale of food or drug to the prejudice of the purchaser.*—(1) If a person sells to the prejudice of the purchaser any food or drug which is not of the nature, or of the substance, or of the quality, of the food or drug demanded by the purchaser, he shall be guilty of an offence.

(2) In proceedings under this section it shall not be a defence to allege that the purchaser bought for analysis or examination such food or drug and was not therefore prejudiced.

6. *Labels.*—A label must—

(*a*) state explicitly what substance has been added to, or what constituent has been abstracted from, the food or drug; and

(*b*) be of adequate size, and have the notice of addition or abstraction distinctly and legibly printed and conspicuously visible.

7. *Offences relating to false labels and advertisement.*—(1) A person who gives with any food or drug sold by him a label, whether attached to or printed on the wrapper or container or not, which falsely describes that food or drug, or is otherwise calculated to mislead as to its nature, substance, or quality shall be guilty of an offence.

(2) A person who publishes, or is a party to the publication of, an advertisement which falsely describes any food or drug, or is otherwise calculated to mislead as to its nature, substance or quality, shall be guilty of an offence.

8. *Regulations as to food.*—Government may make rules for all or any of the following purposes namely:—

(*a*) authorising measures to be taken for the prevention of danger to health from the importation, preparation, transport, storage, exposure for sale, and delivery of food of various kinds intended for sale or having been sold for human consumption,

(*b*) requiring wrappers or containers enclosing or containing food of various kinds to be labelled or marked in accordance with the rules,

(*c*) prohibiting or restricting the addition of any substance to, and regulating generally the composition of, any food.

9. *Offences relating to the sale, etc., of the unsound food.*—(1) A person who—

(*a*) sells, or offers, or exposes for sale, or has in his possession, for the purpose of sale or of preparation for sale; or

(*b*) deposits with, or consigns to any person for the purpose of sale or of preparation for sale, any food intended for, but unfit for human consumption, shall be guilty of an offence.

(2) Where food in respect of which an offence under clause (*a*) of sub-section (1) has been committed was sold to the offender by some other person, that person also shall be guilty of an offence.

10. *Examination of food or drug by officers appointed by Central or State Governments.*—(1) Any officer, authorised by the Central or State Government may at any time examine any food or drug intended for human or animal consumption which has been sold, or is offered, or exposed for sale, or is in the possession of, or has been deposited with or consigned to, any person for the purpose of sale or of preparation for sale, and, if it, appears to him to be unfit for human or animal consumption, may seize it and remove it in order to have it examined, and the person concerned proceeded against.

(2) An officer who seizes any food or drug under sub-section (1) shall inform the person in whose possession it was found, of his intention to have it and him dealt with, and any person who under section 9 may be liable to a prosecution in respect of the food or drug shall be entitled to be heard and to adduce evidence.

(3) If it is proved that any food or drug thus seized under this section is unfit for human consumption, it shall be condemned and destroyed, or be so disposed of as to prevent it from being used for human or animal consumption.

(4) If the food seized is not so condemned, it shall be returned to the person concerned and the authority shall compensate the owner of the food or drug for any depreciation in its value resulting from its seizure and removal.

CHAPTER 3

Milk and Milk Products

11. *Powers of Government to make regulations.*—(1) Government may make regulations for determining what deficiency in any of the normal constituents of milk, or what proportion of water, in a sample shall for the purposes of this Act raise a presumption, until the contrary is proved, that the article sampled is not genuine milk.

(2) Regulations made under this section shall be laid before Parliament as soon as may be after they are made.

12. *Offences relating to adulteration and sale of adulterated milks.*—(1) No person shall—

(*a*) add any water or colouring matter, or any dried or condensed milk or liquid reconstituted therefrom, to milk or *dahi* (curd) or *lassi* intended for human consumption; or

(*b*) sell, or offer, or expose for sale, or have in his possession for the purpose of sale, for human consumption any milk or *dahi* or *lassi* to which any addition has been made in contravention of the provisions of this sub-section.

(2) A person who contravenes any of the provisions of this section shall be guilty of an offence.

13. *Offences relating to adulteration of butter, ghee and false advertising.*—(1) A person who sells, or offers, or exposes for sale, or has in his possession for the purpose of sale—

(*a*) butter which contains in it any animal fat or other adulterant; or

(*b*) ghee which is not wholly clarified butter but contains in it "vanaspati", animal fat or other adulterant, shall be guilty of an offence.

(2) A person who publishes or is a party to the publication of an advertisement describing adulterated butter or ghee as pure butter or ghee shall be so guilty of an offence.

14. *Seizure of adulterants and other offences thereto.*—If any substance intended to be used for the adulteration of butter or ghee is found in a dairy or shop which deals only in such foods, the owner and occupier of the dairy or shop shall be guilty of an offence, and, if any oil or fat capable of being so used is found in such a place, it shall be presumed to be intended for such use, unless the contrary is proved.

CHAPTER 4

DRUGS

15. *Adulteration of drugs.*—A drug shall be deemed to be adulterated—

(*a*) if it consists in whole or in part of any filthy, putrid, or decomposed substance, if it has been prepared, packed or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health; or, if it is a drug, and its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

(*b*) if it purports to be or is represented as a drug, the name of which is recognised in official compendium, and its strength differs from, or its quality or purity falls below, the standard set forth in such compendium;

(*c*) if it is not subject to the provisions of clause (*b*) and its strength differs from, or its purity or quality falls below, that which it purports or is represented to possess; and

(*d*) if any substance has been mixed or packed therewith so as to reduce its quality or strength or substituted wholly or in part therefor.

16. *Offences relating to the adulteration of drugs.*—A person who adulterates a drug, or who sells, offers or exposes for sale, such adulterated or misbranded drug shall be guilty of an offence.

CHAPTER 5

ADMINISTRATION

17. *Duty of the Central and State Governments.*—It shall be the duty of the Central Government, and of every State Government to carry into execution within their area and to enforce the provisions of this Act with a view to securing that food and drugs are sold only in a pure and genuine condition.

18. *Appointment of public analysts and regulations prescribing their qualifications.*—(1) Every Government shall appoint in accordance with the provisions of this Act one or more persons, designated as "public analysts" to be analysts of food and drugs within their area.

(2) No person shall be appointed a public analyst unless he possesses either the prescribed qualifications or such other qualifications as Government may approve, and no person shall be appointed public analyst for any area who is engaged directly or indirectly in any trade or business connected with the sale of food or drugs in that area.

(3) A public analyst shall be paid such remuneration as may be fixed by Government.

(4) Regulations prescribing qualifications for the purpose of sub-section (2) of this section shall be laid before Parliament as soon as may be after they are made.

19. "*Sampling Officer*".—(1) An authorised officer of the Central or State Government, may exercise such powers of procuring samples of food and drugs for analysis, or for bacteriological or other examination as are conferred upon him under this Act, and any such officer shall be referred to in this Act as a "sampling officer".

(2) The sampling officer may purchase or take samples of any food or drug, or any substance capable of being used in the preparation of food or drug, found on premises which he has entered in the execution of his duties under this Act.

20. *Duties of the "sampling officer".*—(1) If a sampling officer who has procured a sample of any food or drug considers that it should be analysed, he shall submit it to be analysed by the public analyst for the area in which the sample was procured.

(2) A person, other than a sampling officer, who has purchased any food or drug may submit a sample of it to be analysed by the public analyst for the area in which the purchase was made.

(3) The public analyst shall analyse as soon as practicable any sample sent to him in pursuance of this section, and give to the person by whom it was submitted a certificate in the prescribed form specifying the result of the analysis; provided that, in the case of a sample, submitted by a person other than a sampling officer, the public analyst may demand in advance such fee as may be prescribed.

21. *Submission of reports by public analysts to Government.*—(1) Every public analyst shall, at the end of every quarter, report to the authority by whom he was appointed, the number of articles which have been analysed

by him under this Act in his capacity of public analyst during the preceding quarter and the result of each analysis.

(2) Every State Government shall transmit to the Centre at such time as may be prescribed, a copy of each quarterly report received by them from every public analyst.

(3) The aforesaid reports together with the reports from public analysts appointed by the Central Government shall be laid before Parliament at least once in every six months.

22. *Offences relating to obstruction to any person in the execution of the Act.*—A person who wilfully obstructs any person acting in the execution of this Act or of any regulation, order, or warrant made or issued thereunder shall be guilty of an offence.

CHAPTER 6

PENALTIES

23. *Punishment of offences under the Act.*—A person guilty of an offence under this Act shall be punishable with imprisonment for a term not exceeding two years, or with a fine not exceeding rupees one thousand or with both.

24. *Proceedings and Procedure under the Act.*—(1) In any proceedings under this Act, the production by one of the parties of a document purporting to be a certificate of a public analyst in the prescribed form, or of a document supplied to him by the other party as being a copy of such a certificate, shall be sufficient of the facts stated therein, unless, in the first mentioned case, the other party requires that the analyst shall be called as a witness.

(2) The court before which any proceedings are taken under this Act may, if it thinks fit, and upon the request of either party, shall, cause the part of any sample produced before the Court to be sent to the Government chemist, who shall make an analysis, and transmit to the Court a certificate of the result thereof, and the costs of the analysis shall be paid by the prosecutor or the defendant as the Court may order.

(3) If, in a case, where an appeal is brought, no action has been taken under sub-section (2), the provisions thereof shall apply also in relation to the Court by which the appeal is heard.

25. *Offences relating to wrong application of a certificate.*—A defendant who in any proceedings under this Act wilfully applies to any food or drug a certificate of analysis given in relation to any other food or drug, shall be guilty of an offence.

CHAPTER 7

MISCELLANEOUS

26. *Powers of the Central Government to make regulations in respect of certain matters.*—Without prejudice to the generality of the provisions under which they are made, the Central Government may make regulations—

(*a*) to provide for the taking and examination of samples;

(*b*) to authorise the making of charges for the purposes of the regulations or for any services, performed thereunder, and to provide for the recovery of charges so made;

(*c*) to make such ancillary and incidental provisions as appear to Government to be necessary or desirable.

STATEMENT OF OBJECTS AND REASONS

The adulteration of food-stuffs and drugs is fast developing into a menace to the health of the nation. In fact it is becoming so common that the majority of people even appear rather indifferent to the problem and its serious consequences. A suitable Central enactment, embracing both food and drugs, has thus become a vital necessity. The Bill seeks to fulfil this purpose in a large measure and contains in it several features which distinguish similar legislation in the United Kingdom and the United States of America, countries which have registered a remarkable advance in this direction.

H. V. KAMATH.

BILL NO. 31 OF 1951

A Bill further to amend the Insurance Act, 1938

BE it enacted by Parliament as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Insurance (Amendment) Act, 19 .

(2) It shall come into force at once.

2. *Amendment of section 28, Act IV of 1938.*—In section 28 of the Insurance Act, 1938 (hereinafter referred to as the said Act),—

(i) in sub-section (2) the following shall be added at the end, namely:—

"The forms of returns referred to in sub-section (1) and this sub-section will be prescribed by Government"; and

(ii) after sub-section (5), the following new sub-section (6) shall be added, namely:—

"(6) The forms of returns shall be so prescribed that they will also show the investments made out of the controlled fund referred to in section 27-A, with the necessary classifications and details."

3. *Omission of section 28-A, Act IV of 1938.*—Section 28-A of the said Act shall be omitted.

4. *Amendment of section 29, Act IV of 1938.*—In section 29 of the said Act,—

(i) the *Explanation* to sub-section (3) shall be omitted;